

Juvenile Justice Improvement Committee
Judicial Conference of Indiana

Minutes
June 4, 2004

The Juvenile Justice Improvement Committee of the Judicial Conference of Indiana met at the Indiana Judicial Center on Friday, June 4, 2004 from 12:00 noon until 3:00 p.m.

1. Members present. Robert R. Aylsworth, Mary Beth Bonaventura, W. Timothy Crowley, Stephen R. Heimann, James W. Payne, Daniel L. Pflum, R. Paulette Stagg, and Mary R. Harper, chair.
2. Staff present. Jeffrey Bercovitz and Anne Jordan provided the committee with staff assistance.
3. Minutes approved. The minutes for the meeting on May 7, 2004 were approved.
4. Guests present. Suzanne Finneran Clifford, Director, Division of Mental Health and Addiction, (DMHA) FSSA; Nikki Kincaid, Program Director, Juvenile Division, Indiana Criminal Justice Institute (ICJI); Michelle Tennell, JJDPA Compliance Officer, ICJI; and Jimmie McMillian, Law Clerk, Justice Sullivan were present.
5. Division of Mental Health and Addictions.
 - a. Suzanne Clifford, Director, Division of Mental Health and Addictions, reviewed her presentation at the Juvenile Court Judges conference on June 25. She will discuss the growing number of children in the mental health system, the new initiatives of systems of care, Medicaid waiver, and screening and assessment for juveniles in foster care. Committee members urged her to discuss who are in these programs, how does a judge access these services, and how to get access to mental health services for juveniles. Dr. Parker will discuss treatment of juveniles incompetent to stand trial.
6. T.J. v. State. Committee members discussed **T.J. v. State**, No. 49A02-0306-JV-462, (Ind. Ct. App. 2004), a not-for-publication opinion, which held a determination of indigency for court-appointed counsel was not sufficient to determine the juvenile's ability to pay costs at disposition. Committee members agreed a parental participation petition should be filed in all cases and parents should be ordered to pay costs at disposition. Otherwise, a second indigency determination must occur at disposition according to this case.
7. Presentation by Nikki L. Kincaid.
 - a. Nikki L. Kincaid, Program Director, Juvenile Division, Indiana Criminal Justice Institute discussed violations of the Juvenile Justice Delinquency Prevention Act (JJDPA) by placement of CHINS in secure settings. She distinguished between "staff secure" and locked facilities. She reported talking with FSSA and IARCCA about licensed child-care institutions that may be secure residential treatment facilities under JJDPA. She believes 20-25 facilities in Indiana may be problematic. She is taking a comprehensive look at licensing regulations and Indiana statutes. She reported \$1.4 million dollars to Indiana's counties is affected by this problem.

b. Nikki Kincaid distributed: (1) Summary of JJDPA: Other facilities; (2) Summary of JJDPA: Juvenile Detention or Correctional Facilities; and (3) New Requirements of the JJDPA 2002-Related to Child Welfare Records.

8. New Interstate Compact on Juveniles.

a. Jeffrey Bercovitz distributed SB 353 (2004), the new Interstate Compact on Juveniles, which did not pass in 2004; the Interstate Compact for Juveniles Resource Kit from the Council of State Governments with frequently asked questions and background information; and the existing regulations.

b. Committee members made the following comments:

(1) Although the forms and administrative procedures are problematic, it will be good to use the same forms and procedures nationally.

(2) A lot of training at the local level will be needed to implement this new law when it is passed.

(3) Would a proposed supervising county have input in accepting and denying new juveniles?

(4) Does a county supervising juveniles get to collect monthly supervision fees? Pg. 8, #4 seems to indicate no fee.

(5) The application fee, modeled after the adult fee, is appreciated.

(6) Does the law providing for dispute resolution among states provide standards on what disputes are submitted for resolution?

(7) How long will it take to process a transfer of juvenile supervision when the new compact is implemented?

(8) Under the present rules, Rule 4-102 indicates the receiving state's Interstate Compact Office has thirty (30) days to forward the final approval. This is too long.

(9) Under the present regulation, Rule 6-102 indicates a runaway can be held in secure detention until returned to their home state. Does this violate the JJDPA?

(10) The committee believes Indiana should be part of the initial 35 states passing the new compact in order to participate in the development of new rules and regulations.

(11) Runaways are most problematic for juvenile courts. They can be costly to hold, whether a county is paying to hold them in another county's facility or a county is holding them in their own facility. It may be more cost effective to send the child back to uncrowd the juvenile detention center and less costly than keeping them in detention.

(12) The border state rules under the Interstate Compact on the Placement of Children may be helpful to this compact.

9. Recent legislation.

a. Jeffrey Bercovitz distributed selected portions of S.E.A. 1; SEA 194, and a portion of 1437; H.E.A. 1082, 1194, 1330, and 1449.

b. Committee members discussed the above legislation. They expressed concern about compliance with ASFA under the record check requirements of H.E.A. 1194 when a child is removed from the home.

10. Other business. Jeffrey Bercovitz distributed:

a. The Pew Commission on Children and Foster Care Report Executive Summary to committee members for review.

b. An email indicating the NCJFCJ had begun a project on the development of delinquency guidelines.

c. Recent newspaper articles concerning juveniles.

11. Next meeting dates. Committee members agreed to meet again on the following dates: October 1, 2004, November 5, 2004 and January 7, 2005 from 12:00 noon – 3:00 p.m. at the Indiana Judicial Center. The following meeting dates were proposed: February 4, 2005, March 4, 2005, May 6, 2005, June 3, 2005 all from 12:00 noon – 3:00 p.m. at the Indiana Judicial Center.

Respectfully submitted,

Jeffrey Bercovitz, Director
Juvenile and Family Law